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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/073,204

02/13/2002

Takaaki Namba

2002_0230A

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02/08/2006

WENDEROTH, LIND & PONACK, L.L.P.

2033 K STREET N. W.

SUITE 800

WASHINGTON, DC 20006-1021

EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,204

Applicant(s)

NAMBA ET AL.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01 December 2005 has been entered.

Response to Amendment

The Applicant canceled claims 1-38, and newly added claims 39-41. All pending claims 39-41 were examined in this non-final office.

Response to Arguments

Pertaining to Rejection under 35 USC 101 in previous office action

Applicant canceled claims 35-38 to render rejection under 35 USC 101 moot.

Pertaining to Rejection under 35 USC 101 in previous office action

Applicant's arguments filed 01 November 2005 have been fully considered but they are not persuasive.

Matsushita and Ginter teach rules and controls which enforce copyright protection. Ginter specifically discloses rules and control being delivered along

with content as the content is distributed, or rules and controls being delivered separate from content, and further teaches separately delivered rules and control not having to follow the same content distribution path. Ginter teaches intermediaries receiving payment, determining fees, and receiving directly from a first, or second, or other content users.

Matsushita and Ginter teach distributor redistributing content from creators, redistributors redistributing content from distributors, rules and controls for rights usage traveling with the distributed or redistributed content ultimately to the end-user or consumer, dynamic updating of usage rights, and consumers redistributing content to other end-users or consumers. Matsushita and Ginter teach or suggest electronic appliances (e.g. computers, server, PDA, telephones, etc) being used to receive and redistribute electronic content in a secure format.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-41 are rejected under 35 USC 103(a) as being unpatentable over Matsushita (Paper #20050201, a collection of prior art cited in PTO-892, Items: V and W), in view of Ginter (Paper #20050201, US 5,910,987).

Matsushita teaches Matsushita Electric and InterTrust Technologies integrating the capabilities of both companies to permit the secure transfer of music packaged in InterTrust's DigiBox Secure Containers to Panasonic's Secure Digital (SD) audio format memory card devices (please note examiner's interpretation: transferring, downloading, exchanging content). Matsushita teaches the InterTrust-Panasonic technology being showcased at the January 2001 International Consumer Electronics Show in Las Vegas, Nevada.

Matsushita teaches InterTrust's peer-to-peer distributed digital rights management technology. Matsushita teaches an end-to-end system for secure digital music distribution services, Panasonic bundling InterTrust's InterRights Point software on CD-ROMs with its e-wear portable audio players (W: see at least pages 1-2). Matsushita further teaches Matsushita Electric and Intel Corporation co-developed software that securely distributes music over the Internet that manages online music distribution from a personal computer and allows the transfer of music to systems with a secure digital memory card (V: see at least pages 1-2).

Matsushita teaches all the above as noted under the 103(a) rejection but does not disclose specific information pertaining to InterTrust's secure content container distribution system. Ginter teaches InterTrust's secure content

distribution system using secure content containers (see at least abstract; Fig. 1 (100); Fig. 2 (102, 106, 112, 116); col. 2, line 24 through col. 47, line 62). Ginter further teaches exchanging content between content creators, distribution management computers, and content users requesting content download and making payment. Ginter further teaches:

- First terminal:
 - Content specifying unit: user terminal; requesting content (see at least Fig. 1 (208); Fig. 2 (112); col. 168, lines 10-11); searching content (see at least col. 37, line 1 through col. 38, line 67); supports dynamic user selection of information subsets of content; consumer search tools, consumer search criteria; hits for user selection (see at least col. 22, line 10 through col. 23, line 14).
 - Content acquiring unit: user terminal receives content (see at least Fig. 2 (112); col. 7, lines 42-54; col. 53, line 30 through col. 54, line 67).
 - Content purchasing unit: user paying for content using credit or electronic currency (see at least col. 30, lines 9-15).
- Second terminal:
 - Content receiving unit: as noted above regarding first terminal, second user terminal receives content (see at least Fig. 2 (112); col. 7, lines 42-54; col. 53, line 30 through col. 54, line 67).
 - Content sending unit: second user can redistribute content to other users; distributors can redistribute content to users; transferring

content from one user to another user; launchable content (see at least Fig. 83; col. 24, lines 25-62).

- Intermediary information accepting unit: end-user terminals, distributors, redistributors, clearinghouse; flexible content distribution agreements that permit a distributor to charge a fee (see at least col. 54, lines 50-55; col. 254, lines 4-7).
- Communication exchange device:
 - Content searching unit: supports dynamic user selection of information subsets of content; consumer search tools, consumer search criteria; hits for user selection (see at least Fig. 1 (200); Fig. 1A (200); col. 22, line 10 through col. 23, line 14).
 - Copyright management unit: protects copyright of content creator (see at least Fig. 2 (106); col. 3, line 51 through col. 4, line 44; col. 45, line 37).
 - Intermediary information sending unit: rules and control can be separately delivered from the path in which the content was received (see at least col. 55, lines 14-37); reporting and payment can also be delivered separately (e.g. financial clearinghouse, distributor, content creator) (see at least Fig. 2 (112, 116, 118, 120); col. 53, lines 54-67; col. 55, lines 38-46); VDE content contains intermediary information for auditing purposes and being able to judge intermediary information (see at least Fig. 5B; Figs. 81-85; col. 43, lines 10-22).

- Search list contains attributes; weight: attributes; searchable content based on atomic increments; tailoring a user content specification; search tools finding most relevant portions of information (see at least col. 22, lines 10-67). Please note examiner's interpretation: user assigning a weight on what is important.

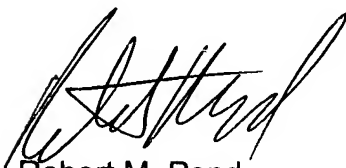
Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system of Matsushita to implement content creation, secured content distribution, rights management with rules/control, and payment as taught by Ginter, in order to provide secured digital rights management and content delivery, and thereby attract content providers and users to the online service.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 703-605-4253. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond
Primary Examiner
February 2, 2006